

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING
1134TH MEETING SESSION (9TH OF 2002)

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MONDAY
JULY 8TH, 2002

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The Regular Meeting of the District of Columbia
Zoning Commission convened at 1:30 p.m. in the Office of Zoning
Hearing Room at 441 4th Street, Northwest, Washington, D.C.,
Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSIONERS PRESENT:

CAROL MITTEN	Chairperson
ANTHONY HOOD	Vice Chairperson
JAMES HANNAHAM	Commissioner
PETER MAY	Commissioner
JOHN PARSONS	Commissioner

ZONING COMMISSION STAFF PRESENT:

ALBERTO BASTIDA	Secretary
ANDREW ALTMAN	Dir., Office of Planning
ELLEN MCCARTHY	Dep. Dir., Office of Planning
ALAN BERGSTEIN	Corporation Counsel

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P R O C E E D I N G S

1:34 p.m.

CHAIRPERSON MITTEN: Good afternoon ladies and gentlemen. This is the regular monthly meeting of the Zoning Commission of the District of Columbia for Monday July 8, 2002.

My name is Carol Mitten and joining me this afternoon are Vice Chairman Anthony Hood and Commissioners Peter May, John Parsons and James Hannaham.

Copies of the revised agenda should be on the table near the door. Mr. Bastida let=s begin, are there any preliminary matters?

SECRETARY BASTIDA: Yes, Madame Chairman there is a preliminary matter regarding Zoning Commission Case Number 02-24/98-14C. It requests a minor modification to the Solar Building PUD at 1000 16th Street.

CHAIRPERSON MITTEN: Thank you, and I need to recuse myself from that case since I was involved in it and I=ll turn over the control of the meeting to Mr. Hood.

VICE CHAIRPERSON HOOD: Thank you. Mr. Bastida? Just one second. Can we proceed with the preliminary meeting?

SECRETARY BASTIDA: Yes, Mr. Vice Chairman. The Secretary of the Commission, based on the delegated authority that the Director has provided him, provided you a memo dated July 3, 2002, in which the Director, through me, had determined that the request is not a minor modification.

And accordingly was not placed on the agenda as a minor modification but as a Hearing Action. You have received a copy of the memorandum. And if you would like, if you have any questions I will try to answer them.

VICE CHAIRPERSON HOOD: Okay Commissioners, we have here in front of us the recommendation from the Office of --

the Director of the Office of Zoning that was made through Mr. Bastida. Any questions or comments, or any problems?

MR. PARSONS: Mr. Vice Chairman, I would concur with Mr. Bastida that the appropriate place to put this is on a Hearing Action agenda, on the agenda. Is a motion required to do that or can we just concur?

VICE CHAIRPERSON HOOD: No, I think if we just do it general consensus, I think that=ll be fine. Okay, so we=ll do it, so ordered. I=m just sorry that we can=t deal with this right now at this point.

MR. PARSONS: Well, at least you have the right to rearrange the agenda, don=t you?

SECRETARY BASTIDA: Yes, Mr. Vice Chairman, you can move the project to a Hearing Action if you so choose and deal with the matter.

VICE CHAIRPERSON HOOD: I didn=t know I had that much authority.

SECRETARY BASTIDA: Oh yes, you have a lot more than you think.

VICE CHAIRPERSON HOOD: Okay, with that colleagues we have a request for setting this down for a Hearing Action. What is your pleasure, does anybody have a comment, or if not I would like to get a motion.

MR. PARSONS: Well, I would move that we set this case down for hearing. I guess I don=t need to repeat the number.

COMMISSIONER HANNAHAM: I would second, Mr. Chairman.

VICE CHAIRPERSON HOOD: Okay, it=s been moved and seconded. We have a question if you would state that Mr. May.

COMMISSIONER MAY: I=m sorry, do we want to hear

from the Office of Planning with regard to this particular request. Since we have a memo?

VICE CHAIRPERSON HOOD: We sure could, and let me just say before the Office of Planning goes on, I would also concur, as far as the minor modification.

I don't think it meets that, because it's not fulfilled our regulation 3030.2. So now I'll hear from the Office of Planning.

MS. MCCARTHY: Well, Mr. Chair, the Office of Planning had reviewed this request for modification very carefully.

And although it may seem on its face to be a substantial modification, we concluded when we looked at it more closely that really it was -- The gist of it is to move the driveway entrance to the parking garage off of 16th Street.

Which as you know had always been a problem for the Office of Planning and for the community. And that is -- the opportunity to do that is because the applicant plans to demolish buildings it had originally planned to save.

They're not contributing buildings or historic in any respect so we had no problems with that. And there was no condition related to that. To keeping that building in the original order of the planned unit development.

So, really there were a number -- the original order was written with a number of conditions to deal with the adverse effects of not demolishing that building.

And being limited to certain constraints which then made problems like having to put the parking entrance on 16th Street. With that one minor change, due to the demolition of everything but the foundation the Solar Building.

Our conclusion was it made everything work so much

better in the PUD. And really was no major design change, was not a use change, was an improvement to the project if any in terms of circulation and pedestrian safety.

And it -- the original objection to moving the garage onto 16th Street had been from our Department of Transportation, but since they are in the process of a major study which would reconfigure K Street.

They felt that under any of the options that they are seriously considering, the service road is going to be eliminated, and therefore the major constraint to putting the parking off of that. Off of K Street instead of 16th Street.

So that is why we -- and we understand in conversations with the applicant that speed is important to them in terms of meeting some financing requirements. So we could not see any issues which would benefit from substantial.

And from another public hearing, and from another opportunity for the public to participate. Particularly given the extensive record that had existed with this application previously.

And if it were only going to delay the project, but not result in any advantage, or any extra important input our recommendation was to leave it as a minor modification and approve it as a consent order.

Consent calendar item on the part of the Commission. So that is the recommendation of the Office of Planning.

VICE CHAIRPERSON HOOD: Thank you, Ms. McCarthy. Colleagues, we have a motion seconded, but due to the insight that the Office of Planning has given us.

I would ask the maker of the motion, does he want to change his motion or would we like to proceed?

MR. PARSONS: Well, I guess I respectfully disagree. It is probably going to be unique in the PUD circumstance that this kind of situation arises. That to me, some major changes are being made to this project.

We may support those, or think we support those at this juncture, but to set the precedent that moving a garage to another street and setting a building back in a different fashion is a minor modification, I'm very troubled by.

And it simply is not. I'm reminded of a case with GW University which was about the same kind of modification and we put that through a hearing process. So based on precedent alone I would urge voting in favor of my motion.

VICE CHAIRPERSON HOOD: Colleagues any other comments? I would also concur with Mr. Parsons. Again, I'm having a problem when I look at the regulations 3030.2:

Minor modifications shall mean modifications of little or no importance or consequence, as determined at the sole discretion of the Commission.@

I too would think that even though that interest is being moved, I think that's a major development in this application. And I think that it needs to be brought to us in a hearing fashion.

Any other comments? If not --

COMMISSIONER HANNAHAM: Mr. Chairman I just want to affirm my second.

VICE CHAIRPERSON HOOD: Okay, thank you.

COMMISSIONER MAY: I think also that I would like to add that the sense that -- or my own sense that while it may well be at this moment that the consensus is that this is a desirable modification, it doesn't necessarily make it minor.

So, we'll see through the hearing.

VICE CHAIRPERSON HOOD: Okay, good. So it=s been moved and seconded, all those in favor?

(Chorus of ayes.)

VICE CHAIRPERSON HOOD: Any opposition so ordered. Mr. Bastida would you record the vote.

SECRETARY BASTIDA: Yes, the staff will record the vote to set down for a hearing, Zoning Commission case 02-24/98-14C. Mr. Parsons= movement and Mr. Hannaham=s second.

Mr. May, Mr. Hood voting on the affirmative. Ms. Mitten not voting, not being -- having to recuse herself.

VICE CHAIRPERSON HOOD: And Mr. Bastida can we give them the earliest date possible. I believe from the report from Ms. McCarthy there=s some financing issues.

Also colleagues, if you would agree, I think this needs to be a limited scope of the things that changed, not a full blown new case. Just on the scope of things that are being changed.

SECRETARY BASTIDA: That is correct Mr. Chairman. The staff will comply with your wishes.

VICE CHAIRPERSON HOOD: Okay, thank you colleagues. Now I guess we will have our Chair to join us.

MR. PARSONS: Mr. Vice Chairman I have to leave, unfortunate conflict this afternoon. I=ve left proxies though for the rest of the cases.

VICE CHAIRPERSON HOOD: Okay, thank you Commissioner Parsons. I=m now turning back over to our Chairperson.

CHAIRPERSON MITTEN: Thank you Mr. Hood. All right, let=s move to the action on the minutes. Mr. Bastida.

SECRETARY BASTIDA: Madame Chairman, the staff have provided you with the minutes of the May 13 meeting and request an action on that matter. Thank you.

CHAIRPERSON MITTEN: Thank you. Any questions, comments, motions? The minutes of May 13.

VICE CHAIRPERSON HOOD: I=ll make a motion to approve the public meeting minutes of May 13 with any necessary corrections.

CHAIRPERSON MITTEN: Second. Any discussion? All those in favor please say AAye@.

(Chorus of ayes.)

Those opposed please say ANo@.

(No response.)

Mr. Bastida.

SECRETARY BASTIDA: The staff will record the vote four to zero to one. Mr. Hood moving and Ms. Mitten seconding. Mr. Hannaham and Mr. May voting in the affirmative. Mr. Parsons not present, not voting.

CHAIRPERSON MITTEN: Thank you.

SECRETARY BASTIDA: You want me to go to the next item?

CHAIRPERSON MITTEN: That would be wonderful.

SECRETARY BASTIDA: Okay. The staff have provided you with a draft of the minutes of June 10, 2002, and request an action on that -- on those minutes. Thank you.

CHAIRPERSON MITTEN: Thank you. I would move approval of the minutes of June 10, with -- I have some editorial corrections, but I also wanted to just mention something that I think is more substantive.

Which is on Page Three, under Capitol Gateway. It=s number three. The motion was to allow an applicant not to ask for special exception review, because they have to -- they=re already subjected to special exception review.

But it would allow them, if they need any other

kind of relief for which they would normally go to the BZA, that it could be granted by the Zoning Commission in the context of the larger case for special exception review.

That was the -- is that the recollection of the other Commissioners on that particular point? This is important because this is going to lead to an advertisement, so I think we want to make sure we've captured it properly.

COMMISSIONER HANNAHAM: Madame Chair, how would you change the -- which language would you use to modify that?

CHAIRPERSON MITTEN: Instead of saying, Ato allow an applicant to ask for special exception review,@ I would say, Ato allow an applicant to seek any other relief ordinarily granted by the BZA in the context of the special exception review that=s required for properties on M Street or in the W Zone within the Capitol Gateway overlay district.@"

The idea was to provide sort of a one stop shopping for someone who would be in -- along M Street or the W Zone, because they have this sort of a design review, special exception that we impose.

VICE CHAIRPERSON HOOD: I would agree, Madame Chairman.

CHAIRPERSON MITTEN: And other than that I just had some editorial changes. Can I get a second?

COMMISSIONER HANNAHAM: Second.

CHAIRPERSON MITTEN: Any further discussion?

COMMISSIONER MAY: I just had a question. Did -- on the Proposed Action on Zoning Case Number 01-35 Waterside Mall, did we make a change of the proposed language?

CHAIRPERSON MITTEN: Yes we did.

COMMISSIONER MAY: And is that among your editorial changes?

CHAIRPERSON MITTEN: Yes it is.

COMMISSIONER MAY: Okay. That was it. Thank you.

CHAIRPERSON MITTEN: Any further discussion? All those in favor of approving the minutes of June 10, 2002, with corrections say AYe@.

(Chorus of ayes.)

Those opposed please say ANo@.

(No response.)

Mr. Bastida.

SECRETARY BASTIDA: Madame Chairman, the staff will record the vote four to zero to one. Ms. Mitten moving and Mr. Hood seconding. Mr. Hannaham and Mr. May voting in the affirmative, Mr. Parsons not present, not voting. Thank you.

CHAIRPERSON MITTEN: Thank you. All right, now we're ready to move to the Office of Planning Status Report. Good afternoon Ms. McCarthy.

MS. MCCARTHY: Good afternoon Madame Chair, members of the Commission. The -- in the interests of time and given that the entire first section of the Office of Planning Status Report is basically cases that have already been set down for public hearing.

That you will be hearing a lot more of every week this month. I think that there's nothing that requires a special mention from the Status Report and I'd be happy to answer any questions that the Commission might have.

CHAIRPERSON MITTEN: Thank you. Any questions from the Commission regarding the OP Status Report? Any questions? All right, thank you.

We're ready to move to Hearing Action. The first item is Zoning Commission Case Number 01-28C/93-3C.

MS. MCCARTHY: Yes Madame Chair, this is a request

for a PUD extension which the Office of Planning is supporting, but recommending that we have a public hearing because of modifications to the project.

And since Rogers from the Office of Planning was the person that prepared the report for the Commission, let me let him briefly review it for you.

CHAIRPERSON MITTEN: Thank you.

MR. ROGERS: Good afternoon, my name is Art Rogers, I'm with the D.C. Office of Planning. In reviewing this case for the extension, as on the cover you've noted that there were several changes made.

The ones that raise the greatest concern, and I'll just skip to page three of our report, were changes in the massing of the building. There were also changes in materials.

And the changes in the unit type and count of the residential units of the project. To summarize it, the Zoning Commission order when it was originally approved, required 200 units and also, you know, required approved as designed.

And if you skip to the end of the report you can see two images on page six, the top image is the first design as it was approved. And then the second image is what was submitted along with the extension request.

We felt that this was a significant enough change that the Zoning Commission should have a public hearing for it. Most notably I guess I would point out is that the building height is 130 feet.

And as you can see in the first design it steps down, but in the second submission it's 130 feet across the length of the block. And this is a significant change to the massing of the project, and so that's -- that was of greatest concern to us.

And it was also mentioned in the original Zoning Commission order, concerned that time, expressed by DHCD that the massing was very tall to begin with. So.

And so therefore we recommend that the Zoning Commission hold a hearing.

CHAIRPERSON MITTEN: Thank you Mr. Rogers. Any questions for the Office of Planning? Mr. May.

COMMISSIONER MAY: Yes, noting the modifications, particularly in materials. I know there was a reversal of the color scheme, if you will, but there was a -- included in that is a change from a light colored brick to a light colored facing.

And I tried to figure out what that facing was. Do you know what they're proposing in the facing material? Is it still going to be brick or is it going to be something else?

MR. ROGERS: That was not mentioned in the report and it didn't come up, so the applicant would be best suited to respond to that.

COMMISSIONER MAY: Okay, well certainly we'll get to that in the hearing, but it was a real question in my mind and it made me very nervous seeing a word like Afacing@ replacing Abrick@.

Because of the implications in terms of, you know, some of the lower quality materials that might appear. Anyway, that was the question I had. Thank you.

CHAIRPERSON MITTEN: Thank you. Mr. Hood?

VICE CHAIRPERSON HOOD: Yes Madame Chair. Mr. Rogers, I guess what I -- I'm trying to understand what's actually happening here. They're asking for an extension. Your recommendation was for one year.

And in your report you stated that the certain

things were not substantial. That maybe we should not grant a further extension later on down the line. At least that=s the way I read your report. Am I correct?

MR. ROGERS: Yes, we felt that a year extension was good enough. And without substantial movement toward building a project that the Zoning Commission, after a year=s time, consider denying further extensions.

VICE CHAIRPERSON HOOD: In your discussions with the applicant, did a year seem to be enough time for them to be able to do what they need to do, tighten up things, then come back in front of the Commission for a hearing?

MR. ROGERS: Yes, there was generally consensus on that was enough time.

MS. MCCARTHY: In fact, Mr. Hood, the applicant has indicated that they would like to come back very quickly for modifications. And so we felt that the one year time limit was not a problem.

The applicant is not proposing to build the project that they=re getting the extension for, so at the -- before -- they have a clear incentive before that time to come back.

Because the changes that they=ve made would not be approved by the Zoning Administrator as consistent with that initial PUD approval.

But extension of a small amount of time will give them time to then come back with new drawings and plans at the level of sufficient detail for the Commission to be able to make a decision on the new modification.

VICE CHAIRPERSON HOOD: Okay, thank you.

MS. MCCARTHY: And I should also add Mr. Chair, that there -- they are keeping the square footage of housing the same. It=s just that by virtue of changing the unit type and

therefore building larger units.

They are changing it to condominium units, which we found to be a very appropriate building type, or unit type, for this location. But they're making them larger, so they're still keeping their same level of residential commitment, they're just doing it in a slightly different format.

VICE CHAIRPERSON HOOD: Thank you.

CHAIRPERSON MITTEN: Now I need a little clarification. Which is, is the time extension meant to be a separate issue before us today, and that will allow them time to bring forward the modification?

Or there will be further modification after what's in front of us?

MS. MCCARTHY: I believe the former, right it's just an extension of what's before you as the >Before= picture. What is in front of you as the >After= picture, or on the last page listed as Number Two, extension request design.

I can see how that caption can be misleading. This is the plan that they would like to come back to you with as a modification. But you are not extending that because it's not been before you as a hearing.

And that was the conclusion that we reached, and then the basis of our recommendation was that this was a substantial enough change that it would merit a separate hearing on this change.

But that as a result of the fact that it was clear the applicant was in the process of moving towards that change, that extending the PUD for a year would be not a problem.

CHAIRPERSON MITTEN: All right, now I'd like to ask a question of Mr. Bergstein. Which is, inasmuch as we have the request for the time extension before us, and they met their

requirement for filing it.

If we just don't take any action on the request for extension and we set down the modification for hearing, can we kind of roll it all into one if we decide to approve the modification.

Then that would be sort of reset the schedule, wouldn't it?

MR. BERGSTEIN: If you're saying, if you want to consolidate both the request for a time extension and the PUD, and rule on them together. Of course, you'd have to do the time extension first, and then the PUD modification. Yes you can do that.

The one question I have is this one year request. Because there's two things you have to do with a PUD. You have to file for building permits, and then you have to begin construction. It's one year --

It's two years for the filing of the building permit and then an additional year for -- to commence construction. If they're only requesting one year, that means they have to do both within that one year period.

File for the building permit and commence construction, unless you're going to change somehow that requirement. So, normally it's a two year extension request, which doesn't separate those two, you have to do both within a two year period.

So, I just -- that was just one question I had in terms of the one year time frame. If they were really prepared, once you -- assuming that you granted a time extension at the same time you granted the PUD modification.

Were they prepared to both file for a building permit and commence construction within that one year period?

CHAIRPERSON MITTEN: Okay, how about -- I understand that part. I understand the one year and the issue with the one year, but how about my question. Which is, can we just package it all as one, set it down for hearing.

And then when we get to the end of the hearing, as you said, we would have two votes, but do we need to take action on the time extension today I guess is my.

MR. BERGSTEIN: Yes. Yes you can.

CHAIRPERSON MITTEN: Okay. Does anyone have any -- my thought would be to consolidate it, rather than confronting at the moment.

Which I don=t even believe that we have enough in the record before us about whether or not there has been anything fundamental.

In terms of the basis for the original PUD approval, whether something has changed. I=d rather confront that in the context of a hearing and deal with the modification all together.

Does anyone --

VICE CHAIRPERSON HOOD: Let me make sure I understand.

CHAIRPERSON MITTEN: I know it=s confusing.

VICE CHAIRPERSON HOOD: So, what you=re proposing is that, if we move in affirmative, that we extend -- grant the extension.

CHAIRPERSON MITTEN: No. Actually, not take action on the extension today. And it remains -- it just remains a pending matter, it doesn=t penalize the applicant in any way.

Inasmuch as they=ve represented that they don=t want to develop the project with the current -- under the current scheme. They=ve come in in a timely manner to file for

the extension, and then we can just rule on that after we would have the hearing on the modification.

VICE CHAIRPERSON HOOD: What if -- Here=s -- From what I=m looking at the recommendation of the Office of Planning, it=s actually getting them to be able, I=m thinking.

That it=s getting the applicant in the position of being able to move on the PUD, and also putting them in place to come back for a hearing. The only other concern is what Mr. Bergstein=s saying about how much time, would they be able to accomplish all that.

I=m in agreement with what=s actually presented here in the Office of Planning report. I=m not in favor always of extending these PUDs for two years. Because as my former colleague always said, that these things lag on for years.

I see some movement trying to happen here. And obviously they=ve had a dialogue with the Office of Planning. So I would be willing, Madame Chair, to go along with this, hopefully this PUD will be moved and actually get up and going.

But if it=s sufficient enough time. If there=s not sufficient enough time, then we -- I guess we need to know that now. I mean, that=s why --

I=m not necessarily saying let=s move for a hearing, and then come up later on and do the extension. I=d rather do it all at once, so the next time we see it we can dissolve with it.

CHAIRPERSON MITTEN: Okay, I think Ms. McCarthy has something to weigh in.

MS. MCCARTHY: Well I guess I was only going to clarify that we had made the recommendation we made just because we were trying to keep it simple, but maybe we chose the wrong mode of simplicity.

But, given our understanding of the applicant=s time frame, and given the fact that now that they have filed for an extension, there is no, you know, they have essentially gotten their stay of execution in terms of the expiration.

We would have no problem of, and I don=t believe the applicant would, of you simply taking no action today, waiting for the applicant to return to, which he expects to do in a very short period of time with the more detailed plans.

Unlike some of the other PUD extensions that we=ve looked at lately, the applicant has a very definite idea of what they want to do. And a plan that they=ve begun on, so I don=t think that there=s a necessity for a long buffer period, basically.

CHAIRPERSON MITTEN: All right. And if we find that that becomes problematic, we can take action on the time extension in September, if things aren=t moving along.

The only issues that I would like to see clarified before we take our vote on the hearing is in Tab Eight, in the concept plan for the ground level, there=s a total of 143 residential units listed.

And I believe that the proposed modification is to 168 and that would need to be clarified. And then there=s a statement at Tab Two of the applicant=s submission that says,

AAAdditionally, the new project proposes to provide 165 parking spaces, or twice the number required by the original order.@

The original order actually required 588 spaces, 100 of which were allocated to the residences. So I would like to have that statement clarified. And if in fact we=re just re-allocating the total number of spaces.

We=ll need to understand the implication for the

commercial component of the project. Any other questions or comments?

VICE CHAIRPERSON HOOD: I just have one question, maybe I'll find an example of this. I saw in here where it says -- mentioned a groundbreaking in the next six to nine months. I didn't understand that part of it.

Anyway, it's all right, it's not nothing, I can go without an answer, I just didn't understand when it said the groundbreaking was in the next six to nine months.

CHAIRPERSON MITTEN: Was that in -- where did you find that?

VICE CHAIRPERSON HOOD: Unfortunately, I write it down on another sheet of paper.

CHAIRPERSON MITTEN: I would guess that maybe that's just their anticipated timing.

VICE CHAIRPERSON HOOD: Okay. And it was also, the building was being named after someone else. But anyway. Nevertheless, I'll withdraw that.

CHAIRPERSON MITTEN: All right. If there are no more questions I would move approval, or set down for hearing approval of the request to set down for hearing Zoning Commission Case Number 01-28C, which is the time extension and modification request for the PUD at 200 K Street Northeast.

VICE CHAIRPERSON HOOD: Second.

CHAIRPERSON MITTEN: Any further discussion? All those in favor please say, AYe@.

(Chorus of ayes.)

Those opposed please say, ANo@.

(No response.)

Mr. Bastida?

SECRETARY BASTIDA: Madame Chairman, the staff have

a proxy from Mr. Parsons voting in the affirmative, so the staff will record the vote five to zero. Ms. Mitten moving and Mr. Hood seconding.

Mr. Hannaham and Mr. May voting in the affirmative and Mr. Parsons voting in the affirmative by proxy.

CHAIRPERSON MITTEN: All right.

SECRETARY BASTIDA: Thank you.

CHAIRPERSON MITTEN: I believe we were going to start calling those absentee votes, if I'm not mistaken.

SECRETARY BASTIDA: Thank you.

CHAIRPERSON MITTEN: I believe Item B under Hearing Action has been taken care of so we'll move to Item C, which is Zoning Commission Case Number 02-22, which is a proposal to rezone lots 103 through 106 and 109 in Square 754.

MS. MCCARTHY: Thank you Madame Chair, you'll remember this general vicinity from the Station Place planned unit development.

Venita Ray from our staff, a new member of the Development Review Division, although not a new member of the Office of Planning has prepared this report. I'm happy to get a chance to meet her, and she'll provide our recommendations.

CHAIRPERSON MITTEN: Welcome to the Zoning Commission.

MS. RAY: Thank you. Again my name is Venita Ray, I'm with the D.C. Office of Planning. And this case is a request for a change in the zoning from R-4 to C-2-A.

As Ellen just said it is across the street from the Station Place development the Commission approved earlier this year I believe it was. All of the surrounding land adjacent to this site is zoned either R-4 or C-2-A already.

This site is located in the Capitol Hill district

and in the Capitol Interest Overlay District. The Comp. Plan designates the area for mixed use. And so the request to change would really make this site consistent with the Comp. Plan.

As well as the general land use map designates this area for moderate density residential and commercial. Office of Planning has recommended that we set this case down for hearing. And I would be happy to take any other questions.

CHAIRPERSON MITTEN: All right. Any questions from the Commission for Ms. Ray?

The only thing -- I think it=s pretty straight forward, it=s really a consistency case. But I didn=t -- I don=t know if anyone else has the exhibits from the petitioner.

I have the petition requesting statement in support and then there=s a list of -- on Page Two of the requests. There are exhibits A through I listed, and I didn=t get copies of those, I don=t know what other people did.

COMMISSIONER MAY: I received them but they were mailed directly to me at my office, they did not come through the Office.

CHAIRPERSON MITTEN: Okay, Mr. Bastida, do we have those in the record?

SECRETARY BASTIDA: I was distracted and I don=t know the question, could you repeat it?

CHAIRPERSON MITTEN: I=d be happy to. In the -- I don=t even know what the exhibit number is, but the petition for Map Amendment statement in support from the F Street Preservation Association, Page Two lists a number of exhibits that were to be attached.

And I don=t have them, so I don=t know if they=re in the record or they=re not in the record.

SECRETARY BASTIDA: Yes, they are in the record,

Madame Chairman.

CHAIRPERSON MITTEN: Okay, is there any --

SECRETARY BASTIDA: If you want the record, we can bring it out and show it to you, and give it to you. The file in the case.

CHAIRPERSON MITTEN: I think that it=s important that the Commissioners have all the material that=s been submitted to the record in front of them when they=re going to make a decision on a --

SECRETARY BASTIDA: And I agree with you, unfortunately there was an oversight and this was sent to you on the last minute on Friday correcting that oversight. And in the rush to get it to you I failed to provide that information.

CHAIRPERSON MITTEN: Okay. I mean, given that it=s fairly straight forward I think I can go ahead, but I know that it=s caused me concern before I got on the Commission when Commissioners didn=t have everything that was submitted to the record in front of them.

So, I wish you at least had called our attention to that so that it would be clear to the applicant, or to the petitioner, that something hadn=t been overlooked, had been submitted for the record.

SECRETARY BASTIDA: Thank you Madame Chairman.

CHAIRPERSON MITTEN: All right. Is there anyone who=s uneasy about moving forward without seeing the exhibits?

All right. Any further questions on this subject?

VICE CHAIRPERSON HOOD: I make a motion that we set down Zoning Commission Case Number 02-22 for hearing.

COMMISSIONER HANNAHAM: Second that.

CHAIRPERSON MITTEN: All right. We have a motion and a second to set down Zoning Commission Case Number 02-22, any

further discussion?

All those in favor please say, AYe.@

(Chorus of ayes.)

Those opposed please say, ANo.@

(No response.)

Mr. Bastida.

SECRETARY BASTIDA: The staff have the absentee vote by Mr. Parsons, voting in the affirmative, so the staff will record the vote five to zero. Mr. Hood moving and Mr. Hannaham second.

Mr. May and Ms. Mitten voting in the affirmative. Mr. Parsons voting in the affirmative by absentee ballot. I at this time would like to clarify that the three Hearing Actions that you have taken today are contested cases. Thank you.

CHAIRPERSON MITTEN: Thank you for reminding me.

MR. BERGSTEIN: Mr. Bastida. I=m sorry but I think the third case, because it=s a Map Amendment not imposed by a property owner, is a rule-making.

SECRETARY BASTIDA: Okay. So I stand corrected. The Zoning Commission cases 01-28C and 02-24 are contested cases, 02-22 is a rule-making case.

CHAIRPERSON MITTEN: Thank you. That=s why we mention it so we can get it all sorted out, so thank you.

SECRETARY BASTIDA: Thank you.

CHAIRPERSON MITTEN: And thanks for remembering because I had completely forgotten. All right we=re ready to move to Proposed Action.

First item is Zoning Commission Case Number 01-24C. Mr. Bastida?

SECRETARY BASTIDA: Madame Chairman, the staff have provided you with all information that was requested by the

Commissioners and it has received into the record, and request an action by the Commission regarding this matter. Thank you.

CHAIRPERSON MITTEN: Thank you Mr. Bastida. I believe everyone has a copy of the submissions, including the draft order submitted by the applicant. Are there any questions or concerns that anyone would like to raise.

I think this was a project that was very well supported. The hearing was very thorough. I don't believe we had many outstanding issues at the conclusion of the hearing.

VICE CHAIRPERSON HOOD: Madame Chair, we did get a letter from Ken Laden from DDOT. My question was, and I didn't see it, it may have been hidden in language, but they made a recommendation about the off-street loading facility.

And I don't know if that's -- I saw it on the -- I saw it somewhere. In the diagram I think it was. But anyway, I just wanted to know if that was placed in the -- did anyone else see it in the conclusions of law or findings, in our decision.

CHAIRPERSON MITTEN: I believe, Mr. May's unfolding the drawing, and there is shown on that drawing an on-site loading area. So I believe that accommodates the concerns that DDOT had expressed.

VICE CHAIRPERSON HOOD: I just didn't see it in the order. So I just wanted -- but anyway. I guess if it's on the architectural drawings, I guess we're safe.

CHAIRPERSON MITTEN: All right. Anyone else?

COMMISSIONER MAY: Yes, I did want to note something that maybe somebody else can explain what I'm missing. There is a mention in the memorandum from Ken Laden with regard to parking, and the twelve parking spaces that would be accessible off of the public alley.

But that there was a statement at the end of that saying, AThis arrangement will eliminate the need to have curb cuts on North Capitol Street and Riggs Road, both major arterial streets in the area.@

But the plan very clearly shows a curb cut where there=s that drive-up to the front door. And I=m wondering what -- do we have a curb cut or do we not.

CHAIRPERSON MITTEN: That=s a good point.

COMMISSIONER MAY: Does the Office of Planning know anything?

CHAIRPERSON MITTEN: I=m sure they know lots of things, but maybe something specific about this would be helpful.

MS. MCCARTHY: I believe that when the Department of Transportation looked at that, their feeling was, because of the visibility and because it was -- would have relatively limited use they did not have a problem with that entrance.

But that=s -- I know they are the ones that looked at that in more detail. And we especially wanted them to, because of the concerns about North Capitol and Riggs and their -- the traffic issues with regard to accessing them.

COMMISSIONER MAY: So they know it=s there.

MS. MCCARTHY: Yes. That=s my understanding.

COMMISSIONER MAY: Okay.

CHAIRPERSON MITTEN: Any other questions or concerns? On the conditions, the only thing that I wanted to add, and I don=t -- it just gives me a little bit extra comfort. It=s the way this condition is normally written.

Under 8A, Athe applicant shall have the flexibility to vary the location and design of all interior components of the building,@ and then I would just add, Aprovided that the

variations do not change the exterior configuration of the building.@"

I think that, that may go without saying, but it doesn't hurt to emphasize it. And I believe we also have the signed copy of their agreement, the First Source hiring agreement.

VICE CHAIRPERSON HOOD: Did we just get that Madame Chair, because I don't --

CHAIRPERSON MITTEN: Yes. We got that today.

VICE CHAIRPERSON HOOD: I don't have a signed copy.

CHAIRPERSON MITTEN: Oh.

VICE CHAIRPERSON HOOD: Well I guess it is signed. I don't know whether it's signed or not.

CHAIRPERSON MITTEN: I believe the copy I have -- or, no, it's not signed, you're right. Well, what we can do is ask Mr. Bastida, since this is Proposed Action, that we have a fully executed copy in time for Final Action.

And that way we'll be assured that it's been taken care of. If there are no other, oh, Mr. May?

COMMISSIONER MAY: Can I -- just one other question on the, or one other issue on the conditions -- in fact just above where you had cited before, 8A, Item 7, Aexterior materials shall include brick and a semiticious fiber type of paneling.@"

I believe they actually presented siding. It's a small difference, but there is -- paneling implies something different.

CHAIRPERSON MITTEN: So the word Asiding@ should be substituted for Apaneling@?

COMMISSIONER MAY: It should be Asiding@ instead of Apaneling@, that's what they presented. And that's what we

should hold them to.

CHAIRPERSON MITTEN: All right. Okay.

MR. BERGSTEIN: Madame Chair can I ask for a clarification. This property is unzoned, and the second paragraph in decision says the subject property shall be zoned R-5-A. Is that the intent to be HUD related zoning with the property to remain unzoned?

Or is this base zoning?

CHAIRPERSON MITTEN: I think you're in the wrong case, Mr. Bastida. I mean, Mr. Bergstein.

MR. BERGSTEIN: Oh I'm sorry.

CHAIRPERSON MITTEN: We're in 01-24C, which is the North Capitol Senior Apartments.

MR. BERGSTEIN: I'm sorry.

CHAIRPERSON MITTEN: You skipped to the East Capitol.

(Laughter)

CHAIRPERSON MITTEN: Any other questions or concerns? Well then I would move approval of Zoning Commission Case Number 01-24C with the modification to the conditions in the proposed order as we have articulated.

COMMISSIONER MAY: Second.

COMMISSIONER HANNAHAM: Second.

CHAIRPERSON MITTEN: We'll give this one to Mr. May.

COMMISSIONER MAY: Thank you. Haven't been fast enough so far. Second.

CHAIRPERSON MITTEN: Any further discussion? All those in favor please say, Aye.@

(Chorus of ayes.)

Those opposed please say, ANo.@

(No response.)

Mr. Bastida.

SECRETARY BASTIDA: The staff will record the vote four to zero to one. Mr. Parsons having heard the case, didn't leave an absentee ballot. Accordingly, the vote will be recorded four to zero to one. Ms. Mitten moving and Mr. May seconding.

Mr. Hood and Mr. Hannaham voting in the affirmative. Mr. Parsons not voting, having not heard the case. Thank you.

CHAIRPERSON MITTEN: Thank you.

SECRETARY BASTIDA: Should I go to the next meeting?

CHAIRPERSON MITTEN: Yes, please.

SECRETARY BASTIDA: The second item on the Proposed Action is Zoning Commission Case Number 01-36C (UCC). The staff have provided the Commissioners with information to make a decision and request that the Commission make such a decision. Thank you.

CHAIRPERSON MITTEN: All right. Let me just take care of a few preliminary things. First, we have a request by the applicant to waive the late filing. They filed their supplemental information a day late. Is there any objection to waiving the filing?

All right, without objection. And Mr. Bastida, do we have any responses to any of the additional submissions by the applicant from the ANCs?

SECRETARY BASTIDA: No, Madame Chairman. The staff have provided you with all the information received into the record.

CHAIRPERSON MITTEN: All right. I had a question that I was hoping we could get some clarification from the Office of Planning. Which is, on the proposed conditions, this

is page number 13 in the order.

There is -- the Historic Preservation Amenity is articulated one way there, and then we have some additional submissions from the applicant, and then we have --

The Office of Planning seems to have sort of distilled what was in the additional submission by the applicant to the two items listed under Amenity Package in that June 28th memo.

So I=d like to ask the Office of Planning, are we meant to basically substitute what you=ve articulated as Items One and Two in the Amenity Package on page one of your supplemental report for Number six ABC in the proposed conditions on page 13?

MR. ALTMAN: Yes.

CHAIRPERSON MITTEN: Okay. Good, short answer, that=s what we like. Clear, very clear. Does anyone have any questions about that before we -- ? Did you want to -- ?

I think there=s actually been a good amount of explanation that=s been submitted, which helped clarify an issue that was cloudy for us when we took this up last month.

Does anyone have any questions? We had some additional submissions about the antenna plan and landscaping and so on. Mr. May?

COMMISSIONER MAY: The question that I had was that clarification in your supplemental report about the historic amenity has not been approved by the State Historic Preservation Office staff.

And yet there=s an implication in the submission from the applicant that it has been approved, and we don=t have anything official indicating that.

MR. ALTMAN: No, what we tried to do actually is to

clarify that it has not been approved by the State Historic Preservation Office staff. What we wanted to establish here was the commitment to the Amenity Package for historic preservation.

With the financial contribution being very clear as to the amount. What it could pay for, there still will have to be a process with the Preservation Office in terms of determining the related to the cottages and some of the other specifics.

But we thought for the Amenity Package the most important thing was to be clear about the financial contribution and what it could be broadly used for.

CHAIRPERSON MITTEN: I=d like to suggest a change to one of the conditions, and then an addition of a condition.

The first is a change which I had mentioned when we discussed this last month. This would be Condition number 7D, on page 14. There=s usually this kind of flexibility granted to an applicant regarding any kind of design changes initiated by the Commission of Fine Arts.

But then, there was also the issue about stand off distance that had been raised by the Commission. So I wanted to add to D at the end this language: AApart from any changes in the physical location of the building on the site.@

So that if the building is in fact moved around on the site that that would be something that would come back to us. And then, there are references made in Condition number nine and ten about their MOU and their First Source agreement.

And there=s an additional MOU that I just wanted to include in a condition, which would be -- could be inserted after ten.

AThe applicant shall abide by the terms of the

memorandum of understanding with ANCss 8A and 8C regarding the establishment of employment opportunities and the handling of the toxic chemical fly ash.@

And then I would take note of the fact that while we have a signed copy of the MOU with the Office of Local Business Development, and we have the signed MOU with the ANCs, we do not yet have a signed copy of the First Source agreement.

And we could handle that the same way that we had handled it on the previous case, which is we could make sure we have it by the time we take final action.

Are there any other?

VICE CHAIRPERSON HOOD: Madame Chair, I don=t want to be in the wrong place either, but wasn=t there mention of a garden? Was this the case?

CHAIRPERSON MITTEN: Yes.

VICE CHAIRPERSON HOOD: Okay, I want to make sure I was on the right case. I think that the applicant had agreed to help the folks who were doing the gardening there --

CHAIRPERSON MITTEN: Yes.

VICE CHAIRPERSON HOOD: Move to another site. And I think that needs to be reflected somewhere in this order. And I can tell you that in the hearing we were at the end of it when we found out it was a garden.

So I don=t want that to get lost. And whether we need an additional Condition or it needs to be stated somewhere either MOU or however, but it needs to be put here that they will -- not saying that they wouldn=t.

But that they will assist, like they stated on the record, that they will assist those who are doing the gardening to be able to find another place for their garden.

Maybe we could do that before Final Action.

CHAIRPERSON MITTEN: Yes, I think if we -- I actually recall, though I didn't bring the Proposed Order from last time with me. I thought that they had mentioned that and it doesn't -- it is not in here.

So maybe what we just need to do is recapture what they had articulated the first time. Because I didn't see that again, but I recall that. So we'll, between now and when we take Final Action.

We will look to add some language to the order regarding their assistance in relocating the garden from the subject site to another location. Any other questions or concerns?

There are a couple of other things that I will present on behalf of Mr. Parsons. This is in reference to Condition Number 4 on page 13. And this relates to pages, I think it's pages eight and nine. Yes, pages eight and nine of the additional submission.

He would propose the following additional language:
 AScreen landscaping and reforestation for the purpose of screening of the building from views from the Suitland Parkway shall be in accordance with the plan submitted to the record,
 >Supplemental Plan Unit Development Information
 Submission Volume 1 of 2, dated 25 June 2002, Pages 8 and 9 of 29.=@

Then there would be the following additional language, AAdjacent to the PUD boundary, within the right of way of the Suitland Parkway.@ Let me start that again.

AScreening landscaping adjacent to the PUD boundary within the right of way of the Suitland Parkway shall be fenced with snow fence to protect the area as it re-vegetates.@

I believe that that reference is being made to

protecting the plantings that are shown on Page 8 of 29 where it says Reforestation Area. This is sort of in the upper left-hand corner of the drawing.

Reforestation area per National Park Service direction and National Park Service specifications. I think the concern there is when they do their mowing, that the trees when they're young will be knocked down. So that's just for protection purposes.

And it will actually support the growth there. And then, also in Condition Number Four, adding the following language:

Re-establishment of at least 12 street trees into the median of the Suitland Parkway shall be provided as screening of the building from views on the inbound lanes of the Parkway as indicated by drawing.

Which is a computer rendering on Page 11 of 29, dated 25 June 2002. @

So if we go to 11 of 29, and you can compare that with Page 10, and you'll see that right under where the UCC building is shown, there are some additional trees shown on the rendering.

And I think Mr. Parsons intent is to capture those additional trees that are approximately 12 in number. Capture them on a landscape plan. Did anyone have any questions about Mr. Parsons' additional language? Because, I did the best I could to explain it, so.

Any concerns about that? All right. Anything else? Then I would move approval of Zoning Commission Case Number 01-36C, which includes a PUD-related rezoning of the property to C-2-B. And then the approval of the PUD project itself with the amended Conditions.

COMMISSIONER HANNAHAM: Second.

CHAIRPERSON MITTEN: All right. Any further discussion? Then all those in favor, please say, Aye.@

(Chorus of ayes.)

Those opposed please say, No.@

(No response.)

Mr. Bastida.

SECRETARY BASTIDA: Mr. Parsons has left an absentee ballot voting in favor of the project. So the staff will record the vote five to zero. Ms. Mitten moving, Mr. Hannaham seconding. Mr. Hood, Mr. May voting on the affirmative. Mr. Parsons voting on the affirmative by absentee ballot.

CHAIRPERSON MITTEN: Thank you Mr. Bastida, and we'll just keep going right into the third case under Proposed Action.

SECRETARY BASTIDA: Yes. The staff request an action on Zoning Commission Case 02-04 New East Capitol Senior Building. Thank you.

CHAIRPERSON MITTEN: All right. I'd just like to ascertain Mr. Bastida, do we have any additional responses from the Office of Planning or the ANC to the filings that were made by the applicant?

SECRETARY BASTIDA: On Zoning Commission Case 02-04?

CHAIRPERSON MITTEN: Yes sir.

SECRETARY BASTIDA: The staff have provided the Commissioners all the information received into the record.

CHAIRPERSON MITTEN: All right. We have some -- in the June 28 submission from the applicant, we have some changes that are being proposed. That are basically responsive to a lot of the concerns that were raised in the hearing.

And Mr. May, some of them I think originated from

your concerns regarding design, and perhaps you'd like to comment on the proposed changes.

COMMISSIONER MAY: Absolutely. Thank you very much. I would like to say that the -- it's very clear that the applicant took a number of the comments that were made at the hearing to heart and really made an effort to improve the design.

And I would note in particular the increase in the number of windows. And I think all of the units will benefit significantly from having more windows. And having those clusters of windows that will help the individual units.

Some of the other efforts -- it's not clear how exactly, for example the through wall HAC units will be better masked. But there is a statement about that effort. I don't see a detail that actually reflects that.

But I have to believe that with that much effort going into the design of the façade itself that there will hopefully be progress in that area. Although it's a very difficult fight to lead.

I think also the other major change is the relocation of the parking, from the one wing to the center section. And the change in the terrace. And that was really, I think, in response to Mr. Parsons' comments in particular.

And I think he was pushing in particular to put all of the parking under the building. And I think that it's a significant benefit to have done so. The treatment of the terrace as a result, I'm not so convinced about.

But I think that it could certainly work the way they have proposed it. Essentially that terrace, which I thought was a nice amenity to have off of the great room has now become essentially like a deck.

And so the character has changed quite significantly. But I do think it would be safer and I certainly think that moving the parking all underground, or all into the building is a significant benefit.

CHAIRPERSON MITTEN: Thank you Mr. May. Since the Office of Planning didn't get an opportunity to weigh in on the additional submissions, I would just ask if they had any concerns that they wanted to raise at this time about any of the proposed changes.

MR. McGETTIGAN: No Madame Chair. This is David McGettigan for the record, from the Office of Planning. We met with the applicant, they showed us what they were planning, and they incorporated any comments we had at that time.

So we have no problems with what they've come forward with.

CHAIRPERSON MITTEN: Great. I did want to ask you if you could clarify something for me. If you're able to. Under Condition Number 9 on page seven of the proposed order, they -- 9E, they request flexibility to relocate the fire lane to the northeast by no more than 40 feet.

And it doesn't look like there's 40 feet of room for it to go and I must not be understanding that, and I don't know if you can clarify that or if any of my fellow Commissioners can clarify that for me.

And while you're thinking about that I'll just also raise the issue that had been raised by, I think it was raised by the Fire Department. It was the Fire Emergency -- Fire and EMS.

They had raised the issue regarding the surface that was being proposed for the fire lane. And they had asked that a certified engineer weigh in, and I didn't see any

additional submission regarding the surface of the fire lane.

So I didn't know where we were with that, if you had any further discussion about that.

MR. McGETTIGAN: No, Madame Chair, we hadn't had any further discussion about the fire lane. Notice, on the plan the fire lane had before gone into the parking lot that's no longer there.

I understand from the applicant that the Fire Marshal was okay with just ending it where it was. That was the adequate amount of access that the Fire Department needed for the building. And they didn't need to continue on through.

CHAIRPERSON MITTEN: You mean all the way through to whatever that other street is?

MR. McGETTIGAN: Blaine Street.

CHAIRPERSON MITTEN: I see. So do you understand what they're asking for by way of flexibility?

MR. McGETTIGAN: Perhaps the Fire Marshal might have said they want to be able to extend their fire lane a little -- 40 feet further towards the building, so they could get closer to the building. That special paving.

CHAIRPERSON MITTEN: I see. Well that's fine, I didn't understand it. I don't necessarily have a problem with it if they need to extend it. And I just didn't want to lose the thought about the surface material.

I would again here propose that we add the language to 9A that says they can relocate the interior components provided that the variations do not change the exterior configuration of the building.

And then again we don't, I don't believe, have signed copies of the First Source Employment Agreement, which is mentioned in Number 10, or the Memorandum of Understanding

with the Office of Local Business Development, which is mentioned in Number 11.

We can handle those the same way which is just by the time we have Final Action, get those into the record. Any other questions, comments, concerns?

VICE CHAIRPERSON HOOD: Madame Chair, I would ask that on page six on the conclusions of law that we omit Number Ten, because it states early on. It reads as though the ANC had a quorum and that we gave them the great weight, if you read into it.

But actually that did not happen, it was just a letter that was done early in the findings. There was just a letter submitted by Mary Gaffney and they did not state -- it was not actually properly before us for us to be able to consider it under great weight.

But then when I look in the conclusions of law, Number Ten gives me the impression that that is exactly what happened. And I think that whole piece needs to be omitted.

CHAIRPERSON MITTEN: Okay. Let me just ask Mr. Bergstein if there=s any requirement that the Conclusion of Law mention any submission from the ANC.

MR. BERGSTEIN: It needs to mention if there was a report by the ANC only, and what the concerns of the ANC were, and those have to be addressed.

CHAIRPERSON MITTEN: So that=s, when you say report, that=s a report that meets the requirements for great weight?

MR. BERGSTEIN: That=s exactly correct, yes.

CHAIRPERSON MITTEN: Okay, so then Mr. Hood=s correct that that should be omitted, because it gives the inference that. And actually that=s included in another order that we just voted on.

So we may have to just pull that out in the editing process. I think it was the North Capitol Senior Building. In that case as well we didn't have a letter that qualified. So that=s just -- that can be taken care of in the editing.

But that was a good catch, thank you. Any other comments, Mr. May?

COMMISSIONER MAY: I was looking into the question of the 40 feet from the fire lane.

CHAIRPERSON MITTEN: Yes.

COMMISSIONER MAY: And it seems that -- my interpretation of that is that based on this trade of land with the National Park Service that it may give them some flexibility to straighten out fire lanes.

CHAIRPERSON MITTEN: I see.

COMMISSIONER MAY: And keep it from sort of swerving into the building, which is kind of the way it looks right now.

CHAIRPERSON MITTEN: I see. That makes sense.

COMMISSIONER MAY: It gives them some comfort to be able to move in from the Northeast, and that seems to make a lot of sense.

CHAIRPERSON MITTEN: Okay. Thank you.

MR. BERGSTEIN: Assuming I=m on the right order, can I raise my question?

CHAIRPERSON MITTEN: If you turn on your microphone.

MR. BERGSTEIN: I=m sorry. Assuming I=m on the right order, the question about its zoning status, is this a PUD-related Map Amendment only?

CHAIRPERSON MITTEN: I believe so, Mr. Bergstein.

MR. BERGSTEIN: All right. So, I would suggest changing that second paragraph under decision, to indicate that it=s zoned R-5-A only for the purposes of this PUD, and remains

unzoned in all other respects.

CHAIRPERSON MITTEN: Thank you. Any other questions or concerns? Mr. Hannaham?

COMMISSIONER HANNAHAM: There was a mention in the Arnold & Porter letter pending the supplemental -- responses or concerns.

Number 14 I=ve been trying to find a plan showing the kind of contemplated change in lot lines between the National Park Service=s property and the PUD site that should be implemented after the post line is changed. It=s submitted here with Appendix F.

Appendix F is pretty huge.

CHAIRPERSON MITTEN: Right.

COMMISSIONER HANNAHAM: And I thought it would probably be under the civil section, but I haven=t seen it.

CHAIRPERSON MITTEN: I think, and I know that Mr. May is going to help me out here, but I think that=s the Plan of Computation. Which was the facing, there was a facing page.

Mr. Hannaham? It was on this side. And it=s at, let=s see, it=s the first page, it=s attached to the back of the page civil.

COMMISSIONER HANNAHAM: Oh, it=s the back of the page civil, okay.

CHAIRPERSON MITTEN: It may have become detached on yours.

COMMISSIONER HANNAHAM: Okay. Over here=s the -- oh okay.

CHAIRPERSON MITTEN: Am I correct that it shows the --

COMMISSIONER HANNAHAM: Last of the part. Yes I see it, okay.

CHAIRPERSON MITTEN: So just for clarification that=s drawing number 30.003-L.

COMMISSIONER HANNAHAM: Right. Thank you.

CHAIRPERSON MITTEN: Anything else?

COMMISSIONER HANNAHAM: I make a motion that we approve Zoning Commission 02-04 with the necessary corrections as discussed by the Commission.

COMMISSIONER MAY: Second.

CHAIRPERSON MITTEN: Thank you. Any further discussion? We have a motion and a second to approve Zoning Commission Case Number 02-04, all those in favor please say, AYe.@

(Chorus of ayes.)

Those opposed please say, ANo.@

(No response.)

Mr. Bastida.

SECRETARY BASTIDA: The staff will record the vote five to zero. Mr. Parsons was voting by absentee ballot in favor. Mr. Hood made the motion, Mr. May seconded. Ms. Mitten and Mr. Hannaham voting on the affirmative, Mr. Parsons voting on the affirmative by absentee ballot.

Thank you.

CHAIRPERSON MITTEN: Thank you Mr. Bastida.

SECRETARY BASTIDA: Should I move on to Item -- ?

CHAIRPERSON MITTEN: Just let me catch up, I=m just trying to arrange my paper.

SECRETARY BASTIDA: Sure.

CHAIRPERSON MITTEN: All right, would you like to take up the item of correspondence?

SECRETARY BASTIDA: Yes, Madame Chairman. There is a letter from Arter & Hadden dated June 25 2002, regarding Zoning

Commission Case Number 00-02, which is a MedStar case.

In which they had made a submission and certain determinations by the applicant, and I wanted to point that out to the Commissioners. The applicant unfortunately didn't serve these on the Office of Planning. The staff was provided with a package for the meeting.

Two copies of all the information to the Office of Planning.

CHAIRPERSON MITTEN: Thank you. I think there's two concerns with the service. One is that they didn't serve the Office of Planning, and the other is that, at least we don't have any indication that they served the ANC.

So while we're very pleased that they're moving in the direction that we had urged them, I think what we need is to get some input before we could possibly consider waiving a hearing. We would need to get input from the Office of Planning and from the ANC.

So this is what I would recommend, and then other Commissioners can weigh in. That we ask that the Office of Planning and that the ANC be served and, perhaps in the case of the ANC, they would need some explanation about what this additional material is that's being provided to them.

And then ask, in particular from the Office of Planning, whether or not in their view this meets the requirements for the second stage PUD submission. Give us some advice on that.

And then also whether or not they think that we have adequate material in the record to proceed without a public hearing. And then we would also ask the ANC to weigh in on whether or not they would be in favor of a further public hearing.

Or what exactly their position would be on that subject. Do other Commissioners have any comments or concerns on that? Or, feel free to concur if you agree with the proposal.

COMMISSIONER MAY: I concur.

COMMISSIONER HANNAHAM: I concur, Madame Chair.

CHAIRPERSON MITTEN: Thank you.

VICE CHAIRPERSON HOOD: I'll reserve my comments.

(Laughter)

CHAIRPERSON MITTEN: That's fine, because we already have a sufficient number of people that concur with me, so we can proceed. All right.

SECRETARY BASTIDA: Excuse me, Madame Chairman, do you have a day set by which you would like to receive this information?

CHAIRPERSON MITTEN: Actually, you would be best able to advise us about that so that we can get this on the agenda for our September meeting. Can you suggest a date?

SECRETARY BASTIDA: Yes. August 30.

CHAIRPERSON MITTEN: August 30, all right.

SECRETARY BASTIDA: Thank you, Madame Chairman.

CHAIRPERSON MITTEN: And if that could just be conveyed to all the folks who are concerned with that. And I believe we've already taken care of our reminder schedule.

And take note of the additional items listed under Other Business on the agenda. Is there anything else, Mr. Bastida?

SECRETARY BASTIDA: Sorry, Madame Chairman.

CHAIRPERSON MITTEN: Is there anything else that we need to take care of?

SECRETARY BASTIDA: No, thank you Madame Chairman.

CHAIRPERSON MITTEN: All right, any other issues that any of the Commissioners have? Well, with that I declare this public meeting adjourned.

(Whereupon, the above-entitled matter was concluded at 2:52 p.m.)